

REMARKS

Claims 1-2, 4-11, 13-18 and 21-24 are currently pending in the present application. Reconsideration of the claims is respectfully requested.

I. 35 U.S.C. §103, Obviousness

The Examiner has rejected claims 1, 2, 4-11, 13-18, and 21-24 under 35 USC §102 as being anticipated by Nassiri (US Pub. No. 2002/0143711). This rejection is respectfully traversed.

Nassiri does not teach all of the limitations recited in independent claims 1, 11, and 18 of the present invention. Specifically, Nassiri does not teach or suggest adding an acceptance option for a Consent to Electronic Records (CER) to the electronic document and requiring a CER from a signer before allowing the document to be executed. This omission by Nassiri could have serious legal consequences depending on the jurisdiction in question.

Furthermore, the manner in which Nassiri stores and applies the notary seal differs from the approach used in the present invention. Nassiri employs a notary seal input device that is independent from the desktop manager application used to perform the notarization function. In the preferred embodiment of Nassiri, the notary seal input device is a portable hardware device that is separate from the computer system running the desktop manager. Nassiri briefly mentions that the notary seal input device may also be a function imbedded in the local computer system. However, the notary input device is always described as a separate entity from the desktop manager, with both entities being dependent upon each other to function. Specifically, Nassiri teaches:

[0096] The electronic notary seal input device 90 is a device that is independent of the desktop manager 30 but nonetheless operates only in conjunction with the desktop manager's 30 notarization function. Likewise, the desktop manager's 30 notarization function only operates when activated by the electronic notary seal input device 90. The electronic notary seal input device 90 may be a function embedded in the customer local computer system 20 or a portable device that attaches to the customer local computer system 20. The electronic notary seal function 115 will only operate in conjunction with the notary seal input device 90 verifying the credentials of the notary public 100 in the host computer system 40 registration database. As stated, verification information consists of that information required by law to license and register with a respective state as a notary public.

[0097] In the preferred embodiment of the present invention, the electronic notary seal input device 90 is a remote hardware device that remains in the sole possession of the notary public 100. The notarization function of the desktop manager 30 will only run when the electronic notary seal input device 90 is attached to the notary public 100 customer local computer system 20. The remote electronic notary seal input device 90 is a hardware-based security portable device that attaches to the serial or parallel printer port of the notary public 100 customer local computer system 20, including a portable laptop of the traveling notary public 100. The remote electronic notary seal input device 90 utilizes a hardware key that uses codes and passwords embedded inside the key to control access to the desktop manager's 30 notarization function. While activated, the electronic notary seal input device 90 receives encoded data from the desktop manager 30 and decodes it in a way that cannot be imitated. The decode data that is returned from the remote electronic notary seal input device 90 is deployed in the desktop manager 30 so that it affects the mode in which the desktop manager 30 executes the notarization function 110. The remote electronic notary seal input device 90 is programmed to execute a notarization 110 upon a verified match with the desktop manager 30. After decoding, a verified match executes the notarization function of the desktop manager 30 that in turn activates the execution of the electronic notary seal 115 which is embedded in the remote electronic notary seal input device 90.

In the present invention, the seal is stored by the notary application itself. A great advantage of the present invention is that all functions of storing and applying the seal are bundled together in the same software package that is used to execute the other notarization functions. Nassiri does not teach this and in fact teaches in the opposite direction by placing great emphasis on keeping the notary seal input device separate from the desktop manager application.

Because claims 2, 4-10, 13-17, and 21-24 depend from claims 1, 11, and 18 respectively, they are distinguished from Nassiri for the reasons explained above.

Therefore, it is respectfully asserted that the rejection claims 1, 2, 4-11, 13-18, and 21-24 under 35 USC §102 have been overcome and should be withdrawn.

II. Response to Arguments

In response to the above arguments, the Examiner writes:

The Nassiri prior art discloses in an embodiment wherein the notary seal is stored as a function embedded within the computer system (notary application) and the notary seal device is attached to the computer system. The electronic seal is embedded in the computer system or the notary application. This disclosure

satisfies this part of the application requirement since the notary seal is attached to or part of the notary application. (See Nassiri paragraph [0096], lines 4-10; paragraph [0097], lines 24-28: seal function embedded within computer system, seal function cannot operate without notary application (distributed application)).

The Examiner's argument incorrectly conflates the software application with hardware, which is a critical distinction. The paragraphs cited by the Examiner (which are quoted above) quite clearly stipulate that the electronic notary seal used by the Nassiri invention is implemented in hardware, either as a remote hardware device (in the preferred embodiment) or imbedded in the computer hardware itself. Furthermore, Nassiri is also very clear that the notary seal device is supposed to be independent of the desktop manager, teaching away from the present invention. Therefore, unlike the present invention, the electronic notary seal in Nassiri is not part of the software application.

The Examiner points to the fact that electronic seal and notary software application in Nassiri need each other to function. However, this merely reinforces the fact that the notary seal and software are separate elements that have to be brought together, unlike the present invention which has the seal itself incorporated into the software application.

With regard to the Consent to Records feature of the claimed invention, the Examiner writes:

The disclosure of an option for "Consent to Electronic Records" is well known in the art. A consumer (client) has to consent to not receive a paper copy of a transaction in lieu of access to an electronic copy of such a transaction. The capability to give a consumer (client) the right or option for acceptance or denial of access to transaction information in electronic form is well known in the art.

...The Nassiri prior art discloses that the consumer initiate the paperless transaction; therefore consent to operate within a paperless environment is implied. (See Nassiri paragraph [0076], lines 5-10: request to accept paperless (electronic) transaction information; paragraph [0020]: concern for legal requirements for transactions)

Paragraph [0076] in Nassiri does not refer to a request for consent but rather to a request signature verification:

[0076] With reference to FIG. 1, a customer 5 with internet or TCP/IP connectivity 10 may either a website, a local access network (LAN) or a wide access network (WAN) using a client-server infrastructure, to provide the point of access to the present invention. In the preferred embodiment of the present invention, the request for signature verification using a paperless document

platform is initiated by the customer 5 accessing a website on the world-wide-web using the customer local computer system 20. The website provides the customer 5 with information about the services available and information in the form of a tutorial on how to register with, and use the present invention. Alternatively, the invention may be configured for use on a restricted LAN or a restricted WAN.

There is no explicit mention of Consent to Electronic Records anywhere in Nassiri.

Applicant does agree that some type of consent could be reasonably implied in the operation of the Nassiri invention. However, even assuming *arguendo* that Nassiri does use some type of request for consent from a user, this does not necessarily result in the limitations recited in the claims. Claims 1, 11, and 18 do not merely include the use of a CER but explicitly recite that the CER function is incorporated into the electronic document itself. This specific implementation is not suggested anywhere in Nassiri. Because Nassiri does not explicitly address the issue of Consent to Electronic Records, there is no guidance in Nassiri as to the specifics of how such a CER would be implemented in the system. For example, a CER could just as easily be incorporated into the operation of notary software application rather than the electronic document itself. Alternatively, it might be implemented in the operating system of the computer hosting the notary application. Therefore, the specific limitation of incorporating the CER into the electronic document itself is not obvious in light of either the current art in general or Nassiri.

Therefore, it is respectfully asserted that the rejection of the claims under 35 USC §103 has been overcome and should be withdrawn.

III. Conclusion

It is respectfully submitted that the claims are now in condition for allowance and are patentable over the cited prior art reference.

A first Office Action on the merits is now respectfully awaited. If there are any outstanding issues that the Examiner feels may be resolved by way of a telephone conference, the Examiner is cordially invited to contact David W. Carstens at 972.367.2001.

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Respectfully submitted,



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